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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Revision of Rules and Policies for the Direct Broadcast Satellite Service	))	IB Docket No. 95-168 PP Docket No. 93-253

COMMENTS OF GE AMERICAN COMMUNICATIONS, INC.

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TABLE OF CONTENTS

SUMMARY

GE American Communications, Inc. ("GE Americom") respectfully urges the Commission to act carefully and narrowly in this expedited proceeding. It is one thing to establish the mechanics for auctioning the Advanced channels next January. It is another to rewrite in just two months the regulatory rules that have governed DBS for over a decade. The Commission should issue a first order in this proceeding that at most implements the procedures for the January auction, and defer other issues to a later date when a more complete record can be developed and considered.

GE Americom's primary concern is that the Commission not adopt unnecessarily restrictive DBS attribution and ownership policies. We do not agree that the spectrum aggregation and conduct rules proposed in the Notice of Proposed Rulemaking are necessary. Sufficient legal safeguards already are in place, and there is increasing competition in DBS. But in any event, the Notice clearly would apply the aggregation and conduct rules too broadly, reaching parties that have no practical ability to engage in the anti-competitive practices the Commission alleges may occur. As a result, the rules would deter these otherwise eligible parties from contributing financial resources and technical expertise to the multi-million dollar task of putting DBS spacecraft in service.

First, the proposed DBS attribution policies are overbroad because they would treat those with non-controlling interests in a DBS program distributor the same as the program distributor itself. Nothing in the Notice demonstrates that

such limitations are necessary to achieve the Commission's expressed goals. To the contrary, for example, GE Americom's non-controlling minority partnership position in Primestar (and two consent decrees related to Primestar) have been carefully structured to recognize GE's non-cable status, and to preserve the flexibility of GE affiliates to become involved in competing direct-to-home satellite service businesses. The Commission should similarly take care not to apply its proposed "competition" rules too broadly through excessive attribution policies.

Second, and related, any spectrum aggregation and conduct rules should apply only to distributors of DBS programming to the public and their affiliates. The rules should not apply to DBS licensees that simply provide satellite capacity and related telecommunications services as carriers to third party DBS programmers. The rationale for the "competition" rules relates entirely to potential programmer conduct, and not carriers. Again, GE Americom does not agree that the proposed spectrum aggregation and conduct rules are needed at all. But if they are adopted, they should apply narrowly so as not to prevent non-programmer parties from supporting DBS infrastructure development in the future.

The Notice raises many other issues that go beyond the scope required to auction the Advanced channels. GE Americom is particularly concerned that the Commission limit any expedited auction decision to the specific facts and circumstances here. GE Americom and many others in the satellite industry oppose auctions in this area because, among other things, U.S. auctions could encourage other nations to auction satellite capacity as well. Such auctions would present a

significant barrier to the efforts of the United States space industry to export our leading technical expertise to meet the communications needs of the world. The International Bureau already has an inquiry under way to review satellite licensing policies. It is there, and in the rulemaking that will follow, that the industry at large is addressing satellite auction issues. The last thing the Commission should do is prejudge that process through unnecessary conclusions regarding auctions made here on an expedited basis, and without the benefit of a complete record from all impacted parties. The Commission should adopt narrowly drawn rules to facilitate the January auction, and leave other issues for another day.

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GE American Communications, Inc. ("GE Americom") hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 95-443 (released Oct. 30, 1995) ("Notice").

INTRODUCTION

GE Americom has an interest in this proceeding in two respects. First, we are the current vendor of satellite capacity to Primestar Partners L.P. ("Primestar") over our Satcom K-1 spacecraft, and have a non-controlling minority partnership interest in that venture. We are concerned that Primestar be able to develop its Direct Broadcast Satellite business through a timely transition to a DBS satellite next year, when Satcom K-1 reaches the end of its useful life.

But second, our interests are different from Primestar because we are a provider of satellite capacity and related telecommunications services, not a distributor of programming to the public. As such, we have a larger concern regarding the Commission's proposal to make major changes in its long-standing DBS policies and rules. In particular, we strongly oppose the overbroad ownership and attribution rules proposed in the Notice because they would unnecessarily

constrain investment in future DBS satellites and operations. For example, our minority equity position in Primestar should not prevent us or our General Electric affiliates from taking actions that could support the deployment of future spacecraft or otherwise promote DBS service to the public. Yet the proposed rules would appear to have that result.

The highly expedited schedule of this rulemaking only increases our concern. It is one thing to develop a process for auctioning the Advanced channels quickly. It is another to rewrite twelve-year old DBS policies in just a two month period. This process does not provide the time for development of adequate record evidence, or for careful consideration of the many complex issues raised in the Notice. A "rush to judgment" on these matters is not necessary to permit the January auction to go forward. 1/ Given the broad significance of DBS policies to the public, we oppose the unnecessarily hurried schedule anticipated in the Notice.

GE Americom also has serious objections to several substantive decisions surrounding the Notice. It is not our intent to belabor those points, most of which are addressed elsewhere by Primestar and others. For present purposes, we will accept the Notice on its own terms.

Nevertheless, for the record we wish to make two preliminary observations. First, we believe the Commission erred in denying Advanced

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1/ We note, for example, that the procedural schedule here will require that reply comments be filed only seven business days after initial comments are due, with Thanksgiving weekend intervening. Even the basic logistical problem of obtaining copies of other parties' comments makes this unique schedule inappropriate for a proceeding of this scope and complexity.

Communications Corporation ("Advanced") the opportunity to transfer its DBS authorization to Tempo DBS, Inc. ("Tempo"). To the extent that the Notice follows from that decision, the predicate for Commission action is flawed.

Second, GE Americom strongly opposes the use of auctions in the satellite context. Auctions are inconsistent with the careful coordination and other policy issues presented by satellite licensing. Moreover, auctioning of U.S. space segment is not in the overall interest of this country and its space industry, which is poised to take the lead in developing new international markets. Domestic satellite auctions would simply encourage other nations to auction off their own orbital resources. In that event, international satellite facilities will become much more costly, and their deployment will occur much more slowly. The United States, as the country with the greatest satellite resources, would be the most adversely impacted by such a slowdown. U.S. satellite operators, manufacturers, launch suppliers and programmers may face new roadblocks in their efforts to serve international markets that have a potentially huge demand for satellite services. The net result would be fewer jobs for American workers, and lower tax revenues for the American treasury than auctions of U.S. space segment alone would provide.

In these circumstances, GE Americom urges the Commission to limit the scope of any decision made in this docket, particularly any expedited order released quickly, to the minimum extent necessary to implement the planned January auction. This is a situation that calls for a "first report and order" simply to set up the auction procedures for assignment of the 110° and 148° W.L. positions,

and a "further rulemaking" with additional time to comment on other policy issues. For example, the "first order" in this proceeding should expressly reserve the question of whether auctions are appropriate outside the context of the planned BSS orbital positions assigned to the United States. The Commission also should defer action on other policy questions that need not be resolved before the auction -- and provide a further opportunity for the submission of evidence and more informed discussion among the parties. This is a case where undue haste could make more than waste. It could unwittingly damage key underpinnings of the US satellite industry.

In the comments that follow GE Americom addresses certain of the issues raised in the Notice that are of most concern to it. We are in general support of the comments to be filed by Primestar, and will not repeat their discussion of many issues. Again, however, our interests are different from Primestar in important respects because we are a provider of satellite capacity and related telecommunications services, not a packager or distributor of programming to the public. As discussed below, this is an important distinction.

I. THE PROPOSED ATTRIBUTION AND OWNERSHIP RULES ARE OVERLY BROAD AND COULD CHILL FUTURE DBS SATELLITE INVESTMENT.

In several sections the Notice suggests that additional "pro-competitive rules and policies" are needed in the DBS area. First, the Notice proposes spectrum aggregation limitations intended to promote competition among multi-channel video programming distributors ("MVPDs"). The Commission suggests that "any DBS licensee or operator affiliated with another MVPD be permitted to control or use DBS channel assignments at only one of the orbital locations capable of full-CONUS transmission." Notice at 18, ¶ 40. The Commission also proposes to "limit the aggregation of DBS channel assignments to a total of 32 at any combination of the orbital locations capable of full-CONUS service." Id. at 19, ¶ 42. Second, in addition to the spectrum aggregation rules, the Commission proposes various "conduct" rules such as marketing limitations and program access requirements that would apply to DBS operators affiliated with non-DBS MVPDs. Id. at ¶¶ 23-27, 54-63.

GE Americom does not support adoption of these "competition" rules. We agree with Commissioner Chong that "minimal regulation is generally best," and that the Commission should not adopt new DBS rules where none are needed. 2/ We also agree with Primestar that the proposed spectrum aggregation and conduct rules are examples of just such unnecessary regulation.

2/ See Notice, Separate Statement of Commissioner Chong.

First, competitive safeguards already are provided in the Cable Act of 1992, federal and state antitrust laws, and two specific consent decrees that Primestar and its partners accepted with both the Department of Justice and the states respectively following lengthy investigations of similar issues. Second, developments in the DBS market themselves demonstrate that more rules and regulations are not necessary. DirecTV and USSB already serve a combined customer base of over one million. EchoStar is about to launch its own DBS service. Other MVPDs have or are about to enter the market. All of this activity is occurring without additional Commission regulation of DBS.

Put simply, the proposed DBS restrictions are unnecessary given both the legal safeguards already in place, and the increasing competition in the DBS marketplace. In these circumstances, it is difficult to imagine that the Commission can find a record to support its proposed restrictions, notwithstanding the rhetoric of some of Primestar's competitors. At the least, the Commission should not make such a major policy change on the accelerated schedule here.

GE Americom will not repeat Primestar's more detailed discussion of why the proposed "competition" rules are unnecessary. But if the Commission nevertheless adopts such rules, it should at least narrow their application. The Notice proposes to apply the rules to a sweeping range of parties, reaching far beyond those the Commission suggests have the power to engage in anti-competitive conduct. Such overbroad application could unintentionally chill DBS investment and restrain future competition. GE Americom's concerns primarily fall

into two categories: (1) the over-reaching scope of the attribution policies that would accompany the spectrum aggregation and conduct rules; and (2) the failure of the rules to distinguish situations in which DBS satellite licensees are acting as carriers and not as program providers themselves.

A. The Commission Should Not Attribute Non-Controlling Interests.

In the Notice the Commission proposes broad new DBS attribution policies that would make parties with non-controlling interests in DBS programmers subject to the spectrum aggregation and conduct rules. GE Americom strongly urges that these attribution proposals are overbroad and insupportable. DBS satellite service requires tremendous financial resources and technical expertise. Restrictions on the ability of a firm to contribute towards deployment of DBS can have serious public interest costs. They can deprive the DBS market of capital and satellite operating experience, and therefore can slow competitive DBS program service to the public and raise the costs of providing that service. The Commission itself recognized as much in its initial DBS decision, finding that "ownership restrictions may limit the availability of services provided by the most experienced and capable suppliers, and may prevent DBS operators from assembling the most attractive program package." 3/ This wisdom is as true today as it was a decade ago.

3/ Direct Broadcast Satellite Service, 90 FCC 2d 676, 713 (1982) (hereinafter "1982 DBS Order").

It follows that the Commission should not impose ownership restrictions on any party unless there is solid record evidence to demonstrate that the benefits of such restrictions outweigh the costs. Again, GE Americom does not agree that spectrum aggregation and conduct limitations are justifiable restrictions on DBS programmers. But in any event, the Commission at least should not apply those rules to minority investors and others having a non-controlling interest in a DBS programmer (or as discussed in the next section, a non-programmer DBS licensee). It makes no sense to compound the barriers to DBS development by denying the DBS market capital and expertise in these circumstances. There is no need to regulate non-controlling interests in this fashion, all the more so given the availability of federal and state antitrust laws and the Cable Act to address any residual competition issues.

GE Americom's minority investment in Primestar is a perfect example. GE Americom received a minority share in the Primestar partnership in the context of providing Primestar service on Satcom K-1, an underutilized FSS satellite that GE Americom marketed as a less expensive and risky stepping stone into the DBS business than high power BSS. GE Americom's original partnership share increased by a small amount with the withdrawal from Primestar of Viacom. But at no time has GE Americom been in a position to control Primestar, and the business reality is that we do not do so.

Quite the contrary, as the one non-cable Primestar partner, we are in a different position from cable firms that are vertically integrated into programming.

In recognition of this fact, our agreement with the other Primestar partners has been carefully negotiated to address our ability to provide satellite services to third parties. The agreement also has been structured so as not to limit the ability of other GE companies to engage in competitive program distribution businesses. Similarly, the antitrust consent decrees binding Primestar were very deliberately crafted so as not to constrain the activities of GE and its affiliates, and to make it more, rather than less, likely that such affiliates could become involved in competing direct-to-home satellite service businesses.

The Notice proposals could upset this carefully designed structure. The proposed attribution rules would limit GE Americom's ability to participate in the provision of DBS satellite service in the future simply by virtue of the non-controlling Primestar interest. As GE Americom understands the Commission's proposals, because we have a greater than five per cent ownership interest in Primestar, we would be subject to all the same ownership and conduct rules as Primestar itself. Furthermore, treating our position in Primestar as an attributable interest apparently could prevent GE Americom affiliates, such as our parent GE Capital or NBC, from participating in DBS services outside of Primestar. Such a result could adversely affect the development of a vibrant DBS marketplace -- directly contrary to the Commission's professed goals.

In these circumstances, we strongly oppose the Commission's proposal to apply broad new attribution policies to DBS such as those set forth in the Notice. First, as a matter of process, the Commission should not adopt attribution policies

of any kind until parties have had a fairer opportunity to develop the evidence, and the Commission itself has had an opportunity to review that evidence carefully. The Commission should not make attribution a part of its rush to implement auction rules by January.

Second, and in any event, the proposed DBS attribution policies go far beyond what is necessary in order to protect the competitive concerns underlying the proposed spectrum and conduct rules. Attribution policies therefore would create unnecessary barriers preventing firms from supplying the capital and experience necessary to operate DBS satellite systems. This does not serve the public interest.

In our view, attribution should not be imposed unless a party actually exercises control over a provider of DBS programming services to the public. 4/ Any broader attribution standard (reaching non-controlling investors or other parties) would seriously disserve the public interest by unnecessarily preventing firms in the future from supplying the capital and technical experience necessary to operate DBS systems costing hundreds of millions of dollars.

This more narrow focus on control as the touchstone for attribution is consistent with the Sixth Circuit's recent discussion of attribution policy in Cincinnati Bell Telephone Co. v. FCC, 1995 Fed App. 0326P (filed Nov. 9, 1995). In that case the court reversed the Commission's PCS attribution rule that applies

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4/ At the least, the Commission should confine any DBS attribution rules so that non-controlling parties are not attributable unless they also are directly involved in the video programming distribution business themselves.

ownership restrictions to any person or entity holding a 20% or greater interest in an existing cellular provider. The court found that the 20% restriction was arbitrary and unsupported by the record because a 20% interest did not necessarily give the holder the ability to control a PCS licensee, and thereby the ability to engage in anti-competitive behavior. Id., slip opinion at 10. This conclusion is equally applicable here.

GE Americom understands that the Commission may seek further review of the Cincinnati Bell decision. We therefore emphasize that our attribution position does not rest on that case. Our more fundamental point is that the overly-broad attribution policies in the Notice would stunt the public interest in DBS without advancing any public interest goals. Attribution should be addressed only after careful consideration of a complete record. But equally important, any new attribution policies should be narrowly drawn to preserve opportunities for investment and other contributions to the future of DBS -- the public benefits that the Commission recognized when it declined to impose ownership restrictions in the initial DBS rules.

B. Spectrum Aggregation and Conduct Rules Should Not Apply to DBS Licensees Who Do Not Provide DBS Program Services to the Public.

More generally, if the Commission adopts these spectrum aggregation and conduct rules, it should apply them only to distributors of DBS programming services to the public, and affiliates of such programmers. The rules should not

apply to a party that provides DBS satellite capacity and related telecommunications services except insofar as that party itself (or its affiliate) also distributes DBS programming.

This is a subtle but important distinction, based on economically important differences between carriers and programmers. Unfortunately, the Notice is both overbroad and unnecessarily ambiguous, blurring lines between licensees, operators and program distributors. Unless these lines are clarified, the DBS spectrum cap and conduct rules will irrationally apply to parties that are not the subject of the expressed competitive concerns.

In the fixed satellite environment "licensee" and "operator" are used almost synonymously to identify the party providing the basic satellite services -- as distinguished from the licensee's customer, who may be a "provider" or "programmer" of direct-to-home video services (or a resale "carrier" with its own customers who may be programmers). These distinctions are important to the different regulatory issues presented by each kind of party, and the different rules applicable to each.

The Notice, on the other hand, improperly blurs these distinctions. It tends to treat DBS "licensees" and "operators" as if they had the same competitive status, even though that may not be the case. Similarly, a "DBS operator" is defined as a provider of "services" using DBS channels without clarifying what kind of services the operator provides -- telecommunications carrier services or video programming. For purposes here GE Americom will assume that a "DBS operator"

is intended to be a party that distributes video programming to the public, but this requires clarification if the Commission continues to use the "operator" term. 5/ We suggest that the rules would be much clearer if the Commission referred only to DBS "programmers," and defined "programmers" as those who provide DBS video service to the public.

Our broader concern is with the proposed application of the rules to "licensees" (in addition to "operator/programmers"). If the Commission adopts DBS spectrum cap and conduct rules, it must limit their application only to parties where the record demonstrates restrictions are justified. As a satellite vendor that is not a program distributor, GE Americom is concerned by any proposal that could limit its ability to participate in the deployment and operation of spacecraft in the future. The proposed rules would have that effect, even though satellite operations per se are not the source of the Commission's competitive concerns.

The Notice fails to recognize that the Commission's DBS rules do not require the licensee to be the distributor of DBS programming service to the public. Certainly a licensee may be the program distributor. But the DBS rules also contemplate that a licensee may instead construct, launch and provide transmission

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5/ The Notice simply "proposes to define a DBS operator as any person or group of persons who provide services using DBS channels and directly or indirectly owns an attributable interest in such satellite system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a satellite system." Notice at 21, ¶ 47 (emphasis added). GE Americom presumes that the "services" referenced in the definition are intended to be video programming services to the public, not basic satellite capacity and related telecommunications networking activities. However, the definition is not so limited.

service over a spacecraft to third party DBS operators, who then use channels on the spacecraft to distribute programming service to the public. In fact, when the Commission adopted the initial DBS rules, it expressly indicated that different regulatory treatment would be appropriate for a DBS applicant that "proposes to provide direct-to-home service and retains control over the content of the transmissions" than for an applicant that chooses to act as a carrier offering satellite transmission services to programmer-customers. 6/

The rationale for spectrum aggregation and conduct limitations in the Notice is largely speculative, as discussed above. But in any event, the Commission's concerns relate entirely to competitive issues that allegedly could arise through activities of entities distributing programming to the public over DBS satellites. Thus, for example, the Commission expresses concern that cross-ownership between "DBS operators" and other MVPDs may have anti-competitive consequences. Id. at 16, par. 34. The Commission therefore proposes concentration limits that restrict DBS operators affiliated with another MVPD to use of one CONUS slot.

However, the Notice does not stop there. The Commission goes further and also proposes to apply the same rule to a DBS licensee -- even if that licensee is not a DBS operator/programmer itself. Nothing in the Notice would support this restriction. To the contrary, if a DBS licensee is willing to make a multi-million dollar investment in DBS spacecraft, but does not provide DBS program service to

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6/ 1982 DBS Order, supra, at 709.

the public, then it has every incentive to find a third party who will do so. If that third party DBS operator is affiliated with another MVPD, then perhaps a "one slot" rule should restrict the ability of that operator to use DBS channels at another location. But it should not restrict the ability of the DBS licensee itself to participate in the provision of DBS capacity at another orbital position.

Similarly, there is no reason to subject DBS licensees who are not DBS programmer/operators to the 32 channel limitation. The Commission may recognize this, for the section of the Notice proposing this rule is labeled "Competition among DBS Operators." Yet the rule itself would apparently prevent a satellite service vendor from being the licensee of more than one DBS full-CONUS spacecraft even when that vendor is not a DBS programmer/operator itself.

The overbreadth of these rules would be even worse if the Commission also adopts the expansive attribution rules discussed in the proceeding section. Together they could prevent financing sources or experienced satellite companies from taking non-controlling positions in more than one DBS spacecraft, even if the video programming distributed to the public over those satellites was entirely handled by unaffiliated programmer customers of the licensees.

These are not purely academic points. GE Americom itself has no present intention to participate in the January auction. However, the proposed spectrum aggregation rules would apply indefinitely, and therefore would constrain future investment in DBS satellite facilities. Overbroad rules would have the effect of unnecessarily limiting the ability of GE Americom, other General Electric

affiliates, or other capable entities from contributing to maintenance and expansion of the nation's DBS infrastructure. If the Commission is determined to re-write its DBS policies, it should not unnecessarily constrain future investment in this fashion. It should make clear that a stand-alone DBS carrier licensee is not subject to rules designed to reach DBS programmers.

II. OTHER DBS POLICY ISSUES

The Notice raises numerous other issues relevant to the future of DBS in this country, including many that need not be addressed on an expedited basis prior to the January auction. GE Americom comments briefly on some of these matters below. However, we hope that the Commission will allow more time for consideration of most of these issues through a second stage of this DBS rulemaking, after the rules for the initial auction are adopted next month.

A. Substitution of Auctions for the Continental Policy.

GE Americom will not reargue here why it believes that auctions are not an appropriate means of assigning satellite licenses. We understand that the Commission is committed to reassigning the Advanced channels by auction in January.

The Commission is correct that it would not be appropriate to continue the so-called Continental policy. See Notice at 7. That result would eliminate opportunities for new DBS competition rather than foster it. It would fragment

valuable channel blocks, reducing the ability of any party to bring service to the public over this spectrum quickly.

That said, GE Americom wants to underscore that this expedited rulemaking is not the place to make more general findings regarding the suitability of auctions as a device for assignment of satellite licenses, particularly licenses outside the planned BSS arc. We state this point out of an abundance of caution, for we realize that satellite auctions per se are not at issue in the Notice. Rather, the International Bureau has a separate initiative under way to review various substantive and procedural issues relating to the satellite application and assignment process. 7/ GE Americom is actively working to respond to that initiative. We and others in the industry will be communicating our views to the Bureau soon, in anticipation of a new rulemaking on the subject that the Bureau contemplates issuing early next year.

GE Americom already has noted its particular concern that satellite auctions in this country could spur similar auctions by other nations. Such auctions would increase the cost and delay the time for the U.S. industry to export its leading position in the satellite industry overseas. For this and other reasons, we believe that the Commission ultimately will conclude that, whatever the merits of auctions in other contexts, they are uniquely inappropriate for satellites. But in any event, the Commission should not prejudge this issue, and the International Bureau's proceedings, through ill-advised generalizations regarding DBS auctions

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7/ See Public Notice, Report No. IN 95-25 (released September 20, 1995).

here. It may be that in these unusual circumstances auctions are the best remaining means of dealing with the Advanced problem. But the Commission should expressly limit the scope of its decision to these channels, and reserve judgment on the broader policy question.

B. Auctions for DBS Permits Offering International Service.

Similarly, this proceeding -- particularly as expedited -- is not the place to address broad policy questions regarding auctioning of DBS satellites used for international service. This issue relates in part to the Commission's ongoing review of regulatory distinctions between domestic and international separate satellite systems. 8/ As the Notice recognizes, it is there that the Commission "expects to address issues related to the authority to provide domestic and international service by U.S. and foreign DBS licensees." Notice at 10, ¶ 24. GE Americom has been generally supportive of Commission proposals to relax and harmonize barriers between domestic and international service, and to provide additional flexibility to satellite licensees. However, we have demonstrated why flash cut changes in this area are unreasonable given the head start that

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8/ See Notice of Proposed Rulemaking, Amendment to the Commission's Regulatory Policies Governing Domestic Fixed Satellites and Separate International Satellite Systems, IB Docket No. 95-41, 10 FCC Rcd 7789, 7793 (1995)("Domsat/Separate System rulemaking").

international systems have with regard to operating agreements. Use of DBS spacecraft to provide international service raises similar issues. 9/

For present purposes, GE Americom strongly urges the Commission not to decide here -- in this highly expedited proceeding -- whether to auction DBS satellites used in international service. That issue need not be decided before the January auction because none of the affected channels are "international" at this time. Moreover, that issue should not be decided quickly, without due consideration, because auctioning of international service capacity is particularly likely to encourage other nations to auction space segment.

GE Americom would oppose such auctions for that reason, but we hope the Commission will not address the issue at all at this time. Quite the contrary, this expedited rulemaking is the last place that the Commission should be deciding the sensitive question of international service auctions. This question requires a much more complete record than can be assembled here, and the participation of a broader segment of the industry who could be adversely affected by auctions.

The Notice correctly defers substantive questions concerning international service from DBS satellites to the pending Domsat/Separate System rulemaking. The Commission should similarly defer consideration of auctioning of DBS satellites used for international service. First, that sensitive issue will never be ripe unless the Commission affirmatively decides that co-primary international

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9/ See Comments of GE Americom in Domsat/Separate System rulemaking (filed June 8, 1995).

DBS service is in the public interest in the Domsat/Separate System rulemaking. That may never occur. Second, even then the auction issue is better addressed in the context of the International Bureau's pending inquiry (soon to be a rulemaking) on satellite assignment procedures generally. 10/ In that proceeding the Commission will be able to receive broader comment from a wider spectrum of the industry that could be affected by such auctions, including satellite operators, manufacturers, launch companies and others who could be harmed by any step that might encourage other nations to auction orbital resources as well.

C. Due Diligence Milestones

GE Americom generally supports the Commission's proposals to add specific construction and operational milestones for DBS permitees. We agree in principle that such milestones are necessary to ensure that future DBS applicants follow through with their proposals. The periods suggested in the Notice are reasonable and should be acceptable to any party seriously interested in deploying space segment.

D. Use of DBS Capacity

GE Americom strongly opposes any further liberalization of the policies requiring use of DBS satellites for DBS service. In the Notice the Commission suggests revising the current rules to permit non-DBS use of up to 50%

10/ See Public Notice, supra.